

Climate Change Program
California Air Resources Board
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COMPLIANCE OFFSET DEVELOPERS ASSOCIATION

Contact:
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Date: August 2nd 2013

Subject: Proposed Amendments to the California Cap and Trade Program

To whom it may concern:

The Compliance Offset Developers Association (CODA) appreciates the opportunity to comment on the proposed amendments to the California Cap and Trade Program as described in the Discussion Draft dated July 18, 2013.

CODA is an association comprised of six of the leading developers of emission reduction projects designed for compliance in the California Cap and Trade program. CODA's membership has substantial experience in the implementation of projects designed to result in emission reduction offsets, and represents a majority of the projects listed as ARB-Early Action projects. CODA's comments below deal primarily with SUBARTICLE 13 of the draft, "ARB Offset Credits and Registry Offset Credits."

95973 (b)

The following language was added:

"In addition, offset projects must also fulfill all local, regional, and national environmental and health and safety regulatory requirements that apply based on the offset project location and that directly apply to the offset project, including as specified in a Compliance Offset Protocol. Offset projects are not eligible to receive ARB or registry offset credits for GHG reductions or GHG removal enhancements if the offset project is not in compliance with regulatory requirements directly applicable to the offset project."

CODA appreciates that the language more clearly states that offset projects must be in compliance with requirements "directly applicable to the offset project". While CODA views this change as helpful in that it describes the intent to hold project developers responsible for regulations under their control, there is still some ambiguity as to which regulations are "directly applicable". Additional clarity, both here and in the specific project protocols, regarding which regulations might be considered directly applicable to projects would be helpful, since any minor violation of any applicable regulation, whether intentional or unintentional and with or without the OPO's knowledge, seems to potentially result in the permanent and complete loss of potential credits for the entire project.

CODA also believes that there are cases where a project might be temporarily out of compliance, but if the project corrects the issue, the temporary non-compliance should not necessarily invalidate the project's entire efforts for the full reporting period. CODA suggests the addition of the following language to the amendment above:

*"Offset projects are not eligible to receive ARB or registry offset credits for GHG reductions or GHG removal enhancements **achieved during the period of non-compliance** if the offset project is not in compliance with regulatory requirements directly applicable to the offset project."*

Establishing a Timeline for ARB Review of Early Action Project Desk Reviews

Consistent with the timelines set out in 95981 for the Issuance of ARB Offset Credits CODA supports the addition of a timeline for ARBs review of early-action projects. It is important that OPOs and APDs, are able to plan for issuance of ARB offsets from early action projects and budget accordingly. Setting an outside date, which could be effective going forward from the date the regulatory amendments are adopted, would provide greater certainty to OPOs and APDs and greater confidence in the efficacy of the review process.

95975(m)

ARB has added this regulation to make listing information final. What happens if a project is sold and the OPO or APD changes during a projects crediting period? In this case it would seem necessary to update the OPO/APD information on the Listing form. CODA requests that this addition be removed or a provision added which permits a project to modify its Listing information under certain circumstances.

95990(f)(3)(c)

CODA notes that ARB explicitly requires desk reviewers to recalculate original desk checks and require the desk reviewer to produce a report detailing the findings of the desk review. This is likely to increase desk review costs and lengthen the time taken for desk reviews. To avoid further confusion from desk reviewers ARB should consider revising Chapter 6 of its Instructional Guidance Document to provide further detail on how desk reviewers should demonstrate that data checks have been recalculated.

95990(f)(3)(F)

This new provision states that ARB may decide to reject the findings of a verification body and require a full verification without any engagement with the OPO or APD. Given the significant costs and time of undertaking a full re-verification CODA requests that ARB notifies the OPO and APD of its decision and provide for a period of time of the OPO or APD to work with ARB to address the reasons for rejecting a desk reviewer's statement.

95921(b)(4)

CODA provided comments in January concerning the reporting of transaction information relating to offsets. CODA anticipates that offset transactions will fall under 95921(b)(3) and (b)(4) given the current absence of exchange traded contracts for physical delivery of offsets. For many offset contracts there is no explicit transaction termination date. Contract provisions with respect to confidentiality, liability and other items will continue after the exchange of offsets – ARB requires for example that data is retained for 15 years (this may or may not be a part of any contract between a buyer and seller). It is not clear, for offsets what date should be included here (and why this information is relevant in any case).

CODA also asks ARB to provide more information about how offset transaction data will be released to the market. In previous comments we expressed concerns that given the variety of project types and transaction structures an attempt to release disaggregated information could enable participants to determine the details of individual transactions.

Thank you for your efforts to continue to improve this landmark program.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Kent', written in a cursive style.

Charles Purshouse, Camco International Group, Inc.

CC: Jonathan Stack, CoolGas, Inc.

Peter Feed, TerraPass

Scott Warner, RemTec International

Derek Six, Environmental Credit Corp.

Paul Caponigri, Diversified CPC International